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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,848	10/08/2003	Charles V. Fernandez	200300442-1	7123

22879 7590 09/19/2005

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EXAMINER

VO, ANH T N

ART UNIT PAPER NUMBER

2861

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/681,848

Applicant(s)

FERNANDEZ, CHARLES V.

Examiner

Anh T.N. Vo

Art Unit

2861

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15 and 22 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-13, 15 AND 22 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

FINAL REJECTION

Claim Rejections

Claim Rejections - 35 USC § 112

Claims 1-13, 15 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Correction or clarification is required.

In claim 1, it is unclear where the “previously used cartridge” on line 6 and “depleted color” on line 8 come from, how the memory device can record the ink/toner usage since it is not connected to the previously used cartridge, how the display device can allow the user to determine the depleted color in the used cartridge and compensate for an uneven usage of that color. The same is true for claim 22.

In claim 4, the recitation “said user” on line 7 lacks clear antecedent basis. It is unclear where “said user”, “previously installed cartridge” on line 8 and “which color was first depleted” come from, how the user can remember the depleted color and how this remembering step can be “requested”, and how user can determine the cartridge history and allowed to do it and how the color can be “compensated. The same is true for claim 10.

In claim 13, the recitation “the depleted color” on line 3 and “said adjusted color” on line 7 lacks clear antecedent basis.

The remaining claims are dependent from the above claims and therefore also considered indefinite.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-12 and 15 are rejected under 35 USC 103 (a) as being unpatentable over Wetchler et al (US 6,196,663) in view of Tietjen et al (US 5,983,234).

Wetchler et al discloses in Figures 3-7 a printing system comprising:

- an ink/toner cartridge (18, Figure 3) including a plurality of ink/toner colors (Figures 4A-4B);
- a printer driver (26) operatively connected to said cartridge (18);
- a memory device (38) operatively connected to said printer driver (26) for recording ink/toner usage of said cartridge (18);
- a display device (48, 50) operatively connected to said printer driver (26) to allow a user to determine which color was depleted first and to compensate for an uneven usage of that color (column 9, lines 55-65 and column 10, lines 1-38); and
- wherein said system is further comprised of: a print head (14, Figure 3) operatively connected to said printer driver (26); and a print mechanism (54) operatively connected to said printer driver (26).

However, Wetchler does not disclose that the display includes a cancel button so that a user can use to cancel the compensation step and a help button for requiring an assistance.

Nevertheless, Tietjen et al suggests in Figure 6 a display comprising a "cancel button" and a "help button" for allowing an user to cancel a selection and displaying assistance information, see lines 49-65, column 12.

It would have been obvious to a person having skill in the art at the time the invention was made to employ the cancel button and the help button suggested by Tietjen et al in the display of Wetchler et al for the purpose of allowing the user to cancel the selection and displaying assistance information for the user.

Response to Applicant's Arguments

The applicant argues that Wetchler et al does not suggest a limitation "a memory device connected to said driver for recording ink/toner usage of previously used cartridge". The argument is not persuasive because the argument is based on the limitation which is not recited in the rejected claims. There is nothing stated in claim 10 about this limitation.

Allowable Subject Matter

Claims 1-9 and 22 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action. The claims are allowed because the prior art of record does not teach an ink/toner cartridge compensation system for uneven ink/toner usage comprising a memory device operatively connected to a printer driver for recording ink/toner usage of a previously used cartridge and a display device operatively connected to a printer driver to allow a user to determine which color was depleted first in the previously used cartridge and to compensate for an uneven usage of the color in the first cartridge in the combination as claimed.


Claim 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. The claim is allowed because the prior art of record does not suggest the steps of compensating a depleted color, adjusting a slider and clicking on a print sample button.

CONCLUSION

Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Anh Vo whose telephone number is (571) 272-2262. The examiner can normally be reached on Tuesday to Friday from 9:00 A.M. to 7:00 P.M.. The fax number of this Group 2861 is (571) 273-8300.



ANH T.N. VO
PRIMARY EXAMINER
September 14, 2005